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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,737	07/24/2003	Koji Dairiki	0756-7176	8059
31780	7590	09/27/2007	EXAMINER	
ERIC ROBINSON			AU, BAC H	
PMB 955			ART UNIT	
21010 SOUTHBANK ST.			PAPER NUMBER	
POTOMAC FALLS, VA 20165			2822	
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			09/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/625,737

Applicant(s)

DAIRIKI, KOJI

Examiner

Bac H. Au

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,6,8,10 and 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,9,11 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/970,908.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>27 April 2007</u>   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on June 11, 2007, in which claims 1, 3 and 5 were amended, has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,3, 5, 7, 9, 11 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakurai (U.S. Pat. 6,333,493) in view of Ballantine (U.S. Pat. 6,105,274).

Regarding claims 1,3, 5, 7, 9, 11 and 19-21, Sakurai discloses a heat treatment method comprising the step of:

holding a treatment object [1 of Fig.1] in a processing chamber;

heating the treatment object by irradiating it with light from a lamp light source during a first period [Col. 7, lines 8-15, col. 12, lines 65-67, col. 13, lines 1-3], while supply of a coolant is kept in the processing chamber [30P; col.7 lines 19-23; coolant is in the pipes 30P which is located within the processing chamber];

cooling the treatment object during a second period [Col.10 lines 42-51; col.12 lines 41-45; col.16 lines 25-29], while supply of a coolant is kept in the processing

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chamber [30P; col.7 lines 19-23; coolant is in the pipes 30P which is located within the processing chamber];

wherein said lamp light source is turned on and the radiation from said lamp light source lasts 0.1 to 20 seconds; at a time; in the first period; wherein the radiation from said lamp light source is repeated several times [Col. 1, lines 65-67, col. 2, lines 1-5, col. 8, lines 48-60, col. 9, lines 25-30, col. 11, lines 23-30, col. 13, lines 53-57, col. 18, lines 20-35, col. 19, lines 5-18, col. 22, lines 13-35, col. 24, lines 23-37, col. 25, lines 5-10; col. 9, lines 14-20 discloses the input voltage is controlled at an interval of 0.5 seconds so as to stabilize the temperature with the temperature set in advance by the control device];

wherein the lamp light source is turned off and cooling the object [Fig. 18, col. 7, lines 19-24; col. 10, lines 37-47];

wherein one cycle including the first period and the second period is repeated several times [Col.12 lines 41-49; col.16 lines 25-34; col.19 lines 19-30];

wherein said lamp light source is selected from the group consisting of a halogen lamp, a metal halide lamp, a xenon lamp, a high pressure mercury lamp, a high pressure sodium lamp and an excimer lamp [Col.7 lines 8-14].

Sakurai fails to disclose wherein the temperature drop rate by the supply of the coolant is 50 to 150°C per second in the second period; and

wherein the coolant is an inactive gas comprising at least one of nitrogen or helium.

However, Ballantine is presented as evidence to show that holding the treatment object in a processing chamber, while supply of a coolant is kept in the processing chamber, is conventional in the art. Ballantine [Abstract, col. 2, lines 27-67, col. 3, lines 1-65, col. 4, lines 1-67, col. 5, lines 1-32, 50-63] discloses holding the treatment object in a processing chamber, while supply of a coolant is kept in the processing chamber, the coolant being nitrogen or helium, and increasing or decreasing the amount of the coolant wherein the temperature drop rate by the supply of the coolant is 50 to 150°C per second [Col.4 lines 24-32, lines 44-49]. Ballantine also discloses keeping the supply of coolant at any desired point, before, during, and/or after heating the treatment object [Col. 3, lines 62-67; col. 4, lines 25-67].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ballantine into the method of Sakurai to include the limitations discussed. The ordinary artisan would have been motivated to modify Sakurai by applying a coolant to the treatment object and the coolant being nitrogen or helium as taught by Ballantine in order to minimize the time that the object stays at undesirable temperatures [Ballantine; col. 3 lines 10-20].

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory

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obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1,3, 5, 7, 9, 11 and 19-21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13-24 of copending Application No. 10/001,197 in view of Ballantine (U.S. Pat. 6,105,274). Claims 13-24 of '197 discloses most of the limitations of the claims, but fails to disclose wherein the temperature drop rate by the supply of the coolant is 50 to 150°C per second. However, Ballantine [Col.4 lines 24-49] discloses wherein the temperature drop rate by the supply of the coolant is 50 to 150°C per second. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ballantine into the method of '197 to include the limitations discussed. The ordinary artisan would have been motivated to modify '197 by applying a coolant to the treatment object in order to minimize the time that the object stays at undesirable temperatures [Ballantine; col. 3 lines 10-20].

This is a provisional obviousness-type double patenting rejection.

4. Claims 1 and 19 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14 and 20 of U.S. Patent No. 6759313 in view of Ballantine (U.S. Pat. 6,105,274). Claims 14 and 20 of '313 discloses most of the limitations of the claims, but fails to disclose wherein the temperature drop rate by the supply of the coolant is 50 to 150°C per second. However, Ballantine [Col.4 lines 24-49] discloses wherein the temperature drop rate by the supply of the coolant is 50 to 150°C per second. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ballantine into the method of '313 to include the limitations discussed. The ordinary artisan would have been motivated to modify '313 by applying a coolant to the treatment object in order to minimize the time that the object stays at undesirable temperatures [Ballantine; col. 3 lines 10-20]. It would have been obvious to repeat the heating and cooling cycle several times as multiple heat treatments and subsequent cooling are commonly done and conventional in semiconductor processes.

#### ***Response to Arguments***

5. Applicant's arguments filed June 11, 2007 have been fully considered and have been adequately treated above. Overall, arguments are not persuasive. The claims stand rejected and the Action is made Final.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

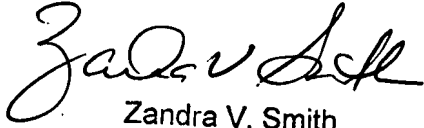
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bac H. Au whose telephone number is 571-272-8795. The examiner can normally be reached on Mon-Fri 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zandra Smith can be reached on 571-272-2429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BHA

  
Zandra V. Smith  
Supervisory Patent Examiner  
24 Sept. 2007